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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

ORACLE USA, INC., *et al.*,

Plaintiffs,

v.

SAP AG, *et al.*,

Defendants.

Case No. 07-CV-1658 PJH (EDL)

**STIPULATION TO PERMIT
DEFENDANTS TO FILE UNDER
SEAL PLAINTIFFS' DOCUMENTS'
SUPPORTING DEFENDANTS'
MOTION TO DISMISS**

1 Pursuant to Local Rules 7-11(a) and 79-5(c), Plaintiffs Oracle USA, Inc. Oracle
2 International Corporation, Oracle Systems Corporation, Oracle EMEA Limited, and J.D. Edwards
3 Europe Limited (“Plaintiffs”) and Defendants SAP AG, SAP America, Inc., and TomorrowNow,
4 Inc. (“Defendants,” and together with Oracle, the “Parties”) jointly submit this Stipulation to
5 permit Defendants to file under seal Plaintiffs’ documents supporting Defendants’ FRCP 12(b)(1)
6 and 12(b)(6) Motion to Dismiss Plaintiffs’ Claims for Copyright Infringement, Interference with
7 Prospective Economic Advantage, Breach of Contract, Unfair Competition, An Accounting, and
8 Unjust Enrichment (“Motion to Dismiss”) under seal.

9 WHEREAS, Plaintiffs filed their Third Amended Complaint on October 8, 2008;

10 WHEREAS, Defendants filed their Motion to Dismiss on October 15, 2008;

11 WHEREAS, the requested relief is necessary and narrowly tailored to protect the alleged
12 confidentiality of the materials put at issue by the Motion to Dismiss until such time as the Court
13 makes a final ruling as to confidentiality of the relevant subject matter. Specifically, Exhibits 1-4
14 to the Declaration of Tharan Gregory Lanier in support of Defendants’ Motion to Dismiss contain
15 information designated by Plaintiffs as “Confidential Information” and “Highly Confidential
16 Information - Attorneys’ Eyes Only” pursuant to the Protective Order entered on June 6, 2007 in
17 this action;

18 NOW, THEREFORE, IT IS HEREBY STIPULATED by the Parties, through their
19 respective counsel of record, that Defendant be permitted to file under seal Exhibits 1-4 to the
20 Declaration of Tharan Gregory Lanier in support of Defendants’ Motion to Dismiss. The Parties
21 further agree that Defendants reserve their rights to challenge the confidentiality of the
22 information filed under seal pursuant to this Stipulation. While the Parties agree that the Motion
23 to Dismiss may be filed publicly, the Parties also agree that the filing shall not be construed as a
24 waiver of any confidentiality designation or other protection with respect to documents,
25 transcripts or other information referred to in, or that serve as the basis for, the allegations or
26 arguments made in it.

27 **IT IS SO STIPULATED.**
28

1 DATED: October 15, 2008

JONES DAY

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3 By: /s/ Tharan Gregory Lanier
4 Tharan Gregory Lanier

5 Attorneys for Defendants
6 SAP AG, SAP AMERICA, INC., and
TOMORROWNOW, INC.

7 In accordance with General Order No. 45, Rule X, the above signatory attests that
8 concurrence in the filing of this document has been obtained from the signatory below.

9 DATED: October 15, 2008

BINGHAM McCUTCHEN LLP

10
11 By: /s/ Geoffrey M. Howard
12 Geoffrey M. Howard

13 Attorneys for Plaintiffs
14 ORACLE USA, INC., ORACLE
15 INTERNATIONAL CORPORATION,
16 ORACLE SYSTEMS CORPORATION,
17 ORACLE EMEA LIMITED, and J.D.
18 EDWARDS EUROPE LIMITED
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